

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD R. WOLLER,
KEITH WILSON,
AND SCOTT ECHOLS

MAILED

SEP 25 2007

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application No. 10/776,845

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on September 18, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

EXAMINER'S ANSWER
Status of Amendments

On January 17, 2007, an Examiner's Answer was entered to the record. On page 2, the examiner stated that “[t]he appellant's statement of the status of amendments after final rejection contain in the brief is correct”. However, on July 10, 2006, the appellants filed an amendment. A review of the file reveals that there is no

indication that the amendment has been considered. Clarification of the status of the amendment is required. The Examiner shall notify the appellants, in writing whether or not the amendment filed on July 10, 2006 has been entered.

EXAMINER'S ANSWER
Grounds of Rejection to be Reviewed on Appeal

The statement of Grounds of Rejection to be Reviewed on Appeal in the Examiner's Answer mailed January 17, 2007 is improper. In accordance with the Manual of Patent Examining Procedure (MPEP) § 1207.02 in part:

Grounds of Rejection to be Reviewed on Appeal. A statement of whether the examiner agrees or disagrees with the statement of the grounds of rejection to be reviewed set forth in the brief and an explanation of any disagreement. Form paragraphs 12.154 and 12.154.01 or 12.154.02 may be used. In addition, the examiner must include the following subheadings (if appropriate):

- (a) "Grounds of Rejection withdrawn" – a listing of grounds of rejection under appeal that the examiner has withdrawn (form paragraph 12.153.05 may be used);
- (b) "Grounds of Rejection Not on Review" – a listing of all grounds rejection that have not been withdrawn and have not been presented by the appellant for review in the brief (form paragraph 12.154.011 may be used).

It should be noted the rejection of claim 20 under 35 U.S.C. 112, second paragraph is not currently under Appeal. Appropriate correction is necessary.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for clarification of whether there is or is not to be entry of the amendment filed on July 10, 2006;
- 2) give a proper explanation of the grounds of rejections to be reviewed on appeal; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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